

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>CR. NO. 2:07cr117-MHT</b>
	)	
<b>DANIEL MINCHEW</b>	)	

**UNITED STATES' RESPONSE TO MOTION TO SUPPRESS**

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and in response to the Motion to Suppress filed by the defendant herein, the following is submitted:

1. Alabama State Trooper Andy Sutley stopped the vehicle the defendant was driving on I-85 near the 13 mile marker in Montgomery County, Alabama. The vehicle was stopped for speeding and no tag and the defendant was the only occupant of the vehicle. When Trooper Sutley approached the passenger side of the vehicle, he observed a black pistol between the seat and center console next to the defendant. Trooper Sutley also detected the odor of alcohol and marijuana inside the vehicle. After the defendant stepped from the vehicle as directed, Trooper Sutley saw another handgun in the door of the vehicle. The defendant had a current pistol permit from Georgia. Trooper Sutley also saw an open container of Corona in a 12 pack box on the back floorboard. Trooper Sutley asked the defendant if there were any more guns and the defendant said there was one in the glove box. Trooper Sutley asked if there was any marijuana in the vehicle and the defendant said no.

2. Trooper Sutley had smelled the odor of alcohol and marijuana inside the car and based upon this odor, he reasonably believed contraband was within the vehicle. When Trooper Sutley looked in the back seat where the odor of marijuana was the strongest, he found an Arizona Tea

can which had a false center that contained plant material. He also found a WD-40 can with a false center that also contained plant material. A red Bull can with a false center was found on the front floorboard and blue and white tablets were concealed therein. An envelope that contained \$2000.00 was located in the back seat.

3. Trooper Sutley initially stopped defendant's vehicle for speeding and for having no tag. Under the Fourth Amendment, a decision to stop an automobile is reasonable where the police have probable cause to believe a traffic violation occurred. U.S. v. Simmons, 172 F.3d 775 (11<sup>th</sup> Cir. 1999). The fact that Trooper Sutley smelled the odor of alcohol and marijuana gave him probable cause to believe the vehicle contained contraband. If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search. U.S. v. Ross, 456 U.S. 798, 102 S.Ct. 2157 (1982).

Wherefore, premises considered, the United States submits the defendant's Motion to Suppress is due to be denied.

Respectfully submitted on this 4th day of October , 2007.

LEURA G. CANARY  
UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 4, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Stuart M. Mones, Esquire.

Respectfully submitted,

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